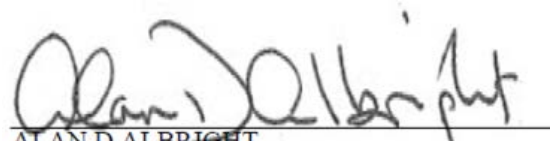


**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

The Court issues this Order to memorialize the Court's final claim construction rulings for the parties in both cases, and to inform the parties that the Court plans to issue a more-detailed Order explaining its analysis in due course.

SIGNED this 10th day of May, 2023.


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

I. AGREED CONSTRUCTIONS - W-20-CV-00078:

Term No.	Term	Agreed Construction
1	“setpoint” '492 patent claims 1, 8-10, 17, 18	“a temperature setting for a thermostat to achieve or maintain”
2	“compare(s)” '488 patent claims 1, 9; '327 patent claims 1, 11	“analyze to determine one or more similarities or differences between”
3	“measurement of the current outdoor temperature” '382 patent claim 5	“measurement of the outdoor temperature at the present time”

II. DISPUTED CONSTRUCTIONS - W-20-CV-00078:

Term No.	Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Final Construction
1	“rate of change in inside temperature” '488 patent claims 1, 9; '327 patent claims 1,11 “rate of change in temperature inside the [said] structure”	“the difference between two inside temperature measurements over a particular span of time between the measurements”	“the difference between inside temperature measurements divided by the span of time between the measurements (<i>i.e.</i> , $\Delta T/\Delta t$)”	“the difference between inside temperature measurements divided by the span of time between the measurements”

	'488 patent claims 8, 16 '327 patent claims 5, 15			
2	<p>“measurement[s]” “measurement[s]”; “measurement of outside temperatures”; “temperature measurement inside a structure”; temperature measurements from inside the structure”; “measurement of at least one characteristic of the building”; “measurement of the current outdoor temperature”</p> <p>'488, '327, and '382 patents, all claims</p>	Plain and ordinary meaning; no construction necessary.	“determination [of the claimed property] by an instrument by using standardized units”	Plain and ordinary meaning.
3	'488 Patent Claims 1 and 9 – Indefiniteness	Plain and ordinary meaning; no construction necessary.	Indefinite due to lack of essential structural connections, under <i>In re Collier</i> , 397 F.2d 1003 (C.C.P.A. 1968), and its progeny.	Plain and ordinary meaning. Not indefinite.
4	“user interface actions intended to alter a state of one or more of said [networked] electronic devices”	Plain and ordinary meaning; no construction necessary.	“a user intentionally interacting with the device’s graphic user interface to alter the device’s state and indicate whether the structure is occupied”	Plain and ordinary meaning.

	'492 patent claims 1, 10			
5	<p>“receiving [receives] input from said one or more users”</p> <p>'492 patent claims 1, 10</p> <p>“said input from said one or more users”</p> <p>'492 patent claims 1, 9, 10, 18)</p>	Plain and ordinary meaning; no construction necessary.	“a user inputting a response to a prompt on the graphic user interface [display] of the one or more networked electronic devices”	Plain and ordinary meaning, wherein “self-reported” means information from vendor(s).
6	<p>“outside temperature”</p> <p>'488 patent claims 1, 2, 9, 10;</p> <p>'327 patent claims 1, 2, 11, 12</p>	“the temperature at a location outside (or external to) [the structure]”	“the actual temperature at a location outside (or external to) [the structure]”	Plain and ordinary meaning.
7	“programmable thermostat” ('327 patent claims 3, 13)	“thermostat that uses microprocessor-based circuitry to control the switch and operate based upon user determined protocols for temperature vs. time”	“thermostat that uses microprocessor-based circuitry to control the switch and to store and operate based upon user determined protocols for temperature vs. time”	“thermostat that uses microprocessor-based circuitry to control the switch and that can be programmed with user-determined protocols for temperature vs. time, upon which it operates.”

III. AGREED CONSTRUCTIONS - W-22-CV-00428:

Term No.	Term	Claims	Agreed Construction
1	A system for reducing the usage of a ventilation system comprising	'100 Patent, Claim 1	Preamble is limiting
2	rate of change of temperatures inside the structure	'100 Patent, Claims 1, 9	“difference between inside temperature measurements divided by the span of time between the measurements”
3	A process for optimizing the delay enforced by a thermostatic controller after said thermostatic controller turns a ventilation system off prior to allowing said thermostatic controller to signal said ventilation system to turn on again comprising	'100 Patent, Claim 9	Preamble is limiting
4	rates of change in temperature at the first location	'186 Patent, Claims 1, 8	difference between inside temperature measurements divided by the span of time between the measurements
5	automated setpoint	'597 Patent, Claim 9	A computer-calculated temperature setting for a thermostat to achieve or maintain
6	setpoint	'597 Patent, Claim 9	a temperature setting for a thermostat to achieve or maintain
7	comparing	'597 Patent, Claim 9	analyzing to determine one or more similarities or differences between
8	setpoint	'890 Patent, Claim 1	a temperature setting for a thermostat to achieve or maintain

IV. DISPUTED CONSTRUCTIONS - W-22-CV-00428:

Term No.	Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction	Court's Final Construction
1	“evaluate one or more parameters / evaluating ... one or more parameters relating to the operation of the said ventilation system” '100 Patent, Claims 1, 9	No construction necessary; plain and ordinary meaning	Indefinite	No construction necessary; plain and ordinary meaning
2	“the predicted rate of change” '597 Patent, Claim 9	“rate of change”: difference between inside temperature measurements divided by the span of time between the measurements Remainder of phrase: No construction necessary; plain and ordinary meaning	Indefinite	Indefinite.
3	“protect the compressor from rapid cycling” '890 Patent, Claim 1	No construction necessary; plain and ordinary meaning	Indefinite	No construction necessary; plain and ordinary meaning
4	“performance characteristic” '890 Patent, Claim 17	No construction necessary; plain and ordinary meaning.	Indefinite	No construction necessary; plain and ordinary meaning